

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID McCALL	)	
	)	CIVIL ACTION NO.: _____
Plaintiff,	)	
	)	
v.	)	
	)	JURY TRIAL DEMANDED
HOME FOR THE FRIENDLESS	)	
dba HOMELAND CENTER	)	
	)	
Defendant.	)	<i>ELECTRONICALLY FILED</i>

**COMPLAINT**

Plaintiff, David McCall, a resident of Cumberland County, Pennsylvania, by and through his attorneys, McCarthy Weisberg Cummings, P.C., brings this civil action for damages against the above named Defendant, Home for the Friendless dba Homeland Center, demands a trial by jury, and complains and alleges as follows:

**JURISDICTION AND VENUE**

1. Jurisdiction of the claims set forth in this Complaint is proper in this judicial district pursuant to 28 U.S.C. §§1331.
2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to these claims occurred in this judicial district.

### **THE PARTIES**

3. Plaintiff, David McCall (“McCall”), is an adult individual residing at 65 Courtyard Drive, Carlisle, Cumberland County, Pennsylvania.

4. Defendant, Home for the Friendless dba Homeland Center (“Homeland Center”) is a Pennsylvania non-profit corporation, with a registered office address and business location of 1901 North Fifth Street, Harrisburg, Dauphin County, Pennsylvania.

5. At all times relevant to this Complaint, Homeland Center employed in excess of fifteen (15) individuals.

6. At all times relevant to this Complaint, Homeland Center operated a Personal Care Home and Skilled Nursing Facility providing a wide variety of services to the aging population of the greater Harrisburg area, located at 1901 North Fifth Street, Harrisburg, Dauphin County, Pennsylvania.

### **ADMINISTRATIVE PROCEEDINGS**

7. On or about February 5, 2015, McCall filed a Charge of Discrimination with the Equal Employment Opportunity Commission (hereinafter referred to as “EEOC”), which was docketed as EEOC Charge No. 530-2015-01721, alleging gender discrimination and wrongful discharge from his employment with Homeland Center, and dual filed with the Pennsylvania Human Relations Commission.

8. McCall has been advised of his individual right to bring a civil action by receiving a Notice of Rights from the EEOC, dated August 17, 2015.

9. McCall has exhausted the administrative remedies available to him, and all necessary and appropriate administrative prerequisites to the filing of this Complaint have occurred and been satisfied.

### **STATEMENT OF FACTS**

10. McCall, a Licensed Practical Nurse (“LPN”), was hired as a Charge Nurse for Defendant on or about February 26, 2009.

11. In or about July 2014, McCall was assigned the role of Wound Nurse.

12. During his tenure as an LPN, as one of the few male LPNs at Homeland Center, McCall was held to different standards with respect to his performance and with respect to discipline as compared to the female LPNs.

13. McCall was told directly by the President and CEO of Homeland Center, Barry Ramper, in conjunction with discipline he received in 2013, that because McCall is a male nurse, Homeland Center was holding him to a different and higher standard than female nurses.

14. On or about October 14, 2014, McCall was terminated, allegedly for a violation of policy involving use of electronic devices at work. Female employees consistently violated the same policy but were not disciplined or terminated.

15. McCall's termination was in violation of his Federal civil rights under Title VII because McCall was held to a higher standard than female LPNs and was discriminated against and terminated due to his gender, male, while similarly situated female LPNs were not disciplined or terminated for similar or more serious offenses than McCall was alleged to have committed.

### **COUNT I**

#### **GENDER DISCRIMINATION**

16. The averments of Paragraphs 1 through 15 above are incorporated by reference as though fully set forth herein.

17. Defendant created, permitted, tolerated, encouraged and fostered a sexually hostile, intimidating, demeaning, degrading, demoralizing and discriminating environment at the Homeland Center where McCall worked, which hostile environment was ongoing and pervasive throughout McCall's employment.

18. The acts of Defendant, and its officers, agents and employees manifesting and permitting this hostile and discriminatory environment, insofar as they are known to McCall, included holding male LPNs to a higher standard than female LPNs, and disciplining / terminating McCall, a male, for a less severe alleged infraction than one for which female employees routinely face no level of discipline.

19. As a consequence of the hostile and discriminatory environment supported and encouraged by Defendant's actions and failures to act, McCall was subjected to emotional distress, humiliation, ridicule and a negative effect on his work product and ability to fully and effectively perform his job duties and responsibilities, all of which manifested itself in mental and physical distress, injury and damage.

20. As a result of the sexually hostile and discriminatory environment, McCall has suffered economic loss, emotional distress, a loss of self-respect and confidence, and has been subjected to great damage to his career and professional standing.

21. The actions of Defendant set forth above constitute violations of Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. (as amended) and the Civil Rights Act of 1991.

WHEREFORE, Plaintiff, David McCall respectfully requests this Honorable Court to enter judgment in his favor and against Defendant, together with compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate, which total amount exceeds the jurisdictional limits for mandatory arbitration referral.

Respectfully submitted,

McCarthy Weisberg Cummings, P.C.

August 27, 2015

Date

/s/ Larry A. Weisberg

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